

CHAPTER 1
IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 5]
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 5]
[Prior to 8/21/02, see 351—Ch 5]

351—1.1(68A,68B) General agency description.

1.1(1) The Iowa ethics and campaign disclosure board consists of six members appointed by the governor and confirmed by the senate. On an annual basis at the board's first meeting after April 30, the members shall elect a chair and a vice chair. Members may be reelected or elected to a different office.

1.1(2) Meetings of the board are held at the call of the chair or at the request of at least four members of the board. The chair sets the time, place, and date of the meetings except when a meeting is requested by at least four members of the board. Meetings may occasionally be conducted by electronic means. When possible, meetings will be announced at least one week in advance. However, when one week's notice is not possible, meetings shall be announced at least 24 hours prior to the commencement of the meeting pursuant to Iowa Code section 21.4. Notice of meetings shall be given by public notice to the media and also posted in the lobby of the board's offices and in the office of the Governor, Statehouse, Des Moines, Iowa. The notice contains the tentative agenda of the meeting.

1.1(3) Any interested party may attend and observe board meetings except for the portion that may be closed pursuant to Iowa Code section 21.5. Observers may use cameras or recording devices during the course of a meeting so long as the use of the devices does not materially hinder the proceedings. Open-session and closed-session proceedings shall be electronically recorded by the board. Minutes of meetings are available for viewing at the board offices or via the board's Web site at www.iowa.gov/ethics. Copies may be obtained pursuant to the applicable copy fee schedule.

1.1(4) Four board members constitute a quorum for conducting business of the board. An affirmative vote of four board members is required for a motion to pass. The meetings shall be generally conducted according to rules of parliamentary procedure.

1.1(5) The duties of the board are listed in Iowa Code section 68B.32A and include but are not limited to: the receipt, examination, and preservation of documents required to be filed; the receipt and processing of complaints alleging violations of Iowa Code Supplement chapter 68A (campaign finance) and Iowa Code chapter 68B (ethics); the holding of administrative hearings; and the development and dissemination of information and educational materials related to the law. The board employs an executive director, contracts or employs the services of a legal counsel, and employs other staff as it deems necessary. The executive director is responsible to the board and is responsible for administrative matters and general supervision of board staff. The board's legal counsel is responsible to the board and serves as the board's chief legal officer.

1.1(6) The board administers the provisions of Iowa Code Supplement chapter 68A relating to state and local campaigns for public office and for ballot issues. The board administers the provisions of Iowa Code chapter 68B as applied to executive branch officials, employees, candidates for state-wide office, and the immediate family members of all the foregoing. The board administers the provisions of Iowa Code chapter 68B relating to the regulation of executive branch lobbyists. The board provides guidance to local governmental officials, employees, and candidates for local governmental office concerning the provisions of Iowa Code chapter 68B, but does not investigate complaints concerning alleged violations of the chapter by those individuals.

1.1(7) The board is a "regulatory agency" as defined in Iowa Code Supplement section 68B.2(23) as amended by 2004 Iowa Acts, Senate File 2179, section 4.

This rule is intended to implement Iowa Code sections 68B.32, 68B.32A, and 68B.32B.

351—1.2(68B) Requirements for requesting board advisory opinions.

1.2(1) *Who may request opinion.* Any person subject to the board's jurisdiction may request a board advisory opinion, including a local official or local employee seeking an opinion on the application of the ethics laws in Iowa Code chapter 68B. A governmental entity not under the board's jurisdiction may request a board advisory opinion on an issue subject to the board's jurisdiction. A person requesting an opinion on the application of the ethics and lobbying laws in Iowa Code chapter 68B as applied to the legislative branch of state government shall be referred to the senate and house ethics committees. An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request.

1.2(2) *Form of request.* The request for an opinion shall be in writing and shall describe the specific transaction, conduct, or activity that the requesting person plans to undertake or is presently undertaking. Requests shall be sent to the board as provided in subrule 1.3(1).

1.2(3) *Jurisdiction.* The board will issue opinions pertaining only to Iowa Code Supplement chapter 68A, Iowa Code chapter 68B, or rules adopted thereunder.

This rule is intended to implement Iowa Code section 68B.32A(11).

351—1.3(68B) Processing of advisory opinion requests; routine administrative advice.

1.3(1) Requests for board advisory opinions shall be sent to the Iowa Ethics and Campaign Disclosure Board, 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319.

1.3(2) After receiving a qualified opinion request, the board's legal counsel shall prepare a draft opinion for board review. Upon an affirmative vote of at least four members, the board will issue a board advisory opinion. Advice contained in a board opinion, if followed, constitutes a defense to a complaint filed with the board.

1.3(3) A person who receives a board advisory opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request.

1.3(4) Board advisory opinions are public records and shall be made available at the board office and via the board's Web site at www.iowa.gov/ethics.

1.3(5) Nothing in this rule precludes board staff from providing oral or written routine administrative advice when presented with oral or written inquiries from any person.

1.3(6) Nothing in this rule precludes a person who has received routine administrative advice from petitioning for a declaratory order. The board will refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requester demonstrates a significant change in circumstances from those in the board opinion.

1.3(7) On an annual basis the board shall review the advisory opinions issued for that year and determine which opinions should be adopted into rule pursuant to the procedures in Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 68B.32A(11).

351—1.4(68B) Board agenda. A person who wishes to be placed upon the board agenda for the board's next meeting shall file an oral or written request with the board's executive director at least 48 hours prior to the meeting.

This rule is intended to implement Iowa Code section 68B.32.

351—1.5(22,68B) Availability of reports and information—copies provided; prohibitions.

1.5(1) A price schedule of the costs and fees for copying and mailing shall be posted in the board office. The board shall review the price schedule on an annual basis.

1.5(2) Upon receipt of payment of copying costs and mailing costs, the board shall mail requested copies of reports to any person.

1.5(3) Information regarding individuals that is copied or otherwise obtained from reports and statements required under Iowa Code Supplement chapter 68A or Iowa Code chapter 68B shall not be used by any person, other than statutory political committees, for the purpose of soliciting contributions or for any commercial purpose pursuant to Iowa Code section 68B.32A(6). For the purpose of this rule, “soliciting contributions” includes soliciting any type of contribution or donation of money or something of monetary value, such as political or charitable contributions. Information obtained from the reports and statements and used in newspapers, magazines, books, or other similar communications is permissible so long as the principal purpose of such communications is not to solicit contributions or for other commercial purpose.

This rule is intended to implement Iowa Code section 68B.32A.

351—1.6(68B) Board code of ethics.

1.6(1) Making monetary and in-kind contributions to the committees of candidates for Iowa public office is prohibited. However, contributions to candidates for federal office are permitted since the board has no jurisdiction over federal candidates.

1.6(2) Serving as an officer or member of a candidate’s committee of a candidate for Iowa public office is prohibited, whether the service is volunteer or paid.

1.6(3) Making monetary or in-kind contributions to a political committee (PAC) is prohibited. However, contributions to a state party or a county central committee are permitted.

1.6(4) Running for or serving as an officer or member of any committee defined under Iowa Code Supplement chapter 68A is prohibited.

1.6(5) Public personal endorsement of a candidate or publicly taking a position in support of or opposition to a ballot issue is prohibited. This subrule does not prohibit a member of the board or staff from making a public personal endorsement of a federal candidate or a federal ballot issue since the board has no jurisdiction over federal candidates or federal ballot issues. Members and staff of the board may attend and participate in a presidential caucus.

1.6(6) Running for or holding elective public office is prohibited.

1.6(7) Attendance at a political committee (PAC) or candidate event is prohibited except for the attendance at events for a federal candidate since the board has no jurisdiction over a federal candidate. However, attendance at a state party or county central committee event is permitted.

1.6(8) Serving as a delegate to a county or state political party convention is prohibited.

1.6(9) If a board member or employee is aware of a disqualifying conflict of interest, the member or employee shall provide notice of recusal stating the reason for recusal, and shall refrain from any participation in the matter.

1.6(10) Board employees shall not engage in any outside employment that creates a potential conflict of interest or that creates the appearance of a conflict without the authorization of the board.

1.6(11) The prohibitions in this rule shall not apply to the spouse or other family members of a board member or employee. However, actions by a spouse or other family member may create a potential conflict of interest on the part of the board member or employee that may necessitate recusal from a matter.

This rule is intended to implement Iowa Code sections 68B.2A and 68B.32.

351—1.7(68B) Board sales of goods and services. A board member shall not directly or indirectly sell any goods or services to any person that is subject to the regulatory authority of the board except as provided by Iowa Code Supplement section 68B.4 as amended by 2004 Iowa Acts, Senate File 2179, section 5, and this rule. However, the sale of goods or services regarding Iowa Code Supplement chapter 68A or Iowa Code chapter 68B shall not be permitted in any case. This prohibition does not apply to sales that are part of the board member’s state duties.

1.7(1) Request for consent. A board member's request for board consent to the sale of goods or services shall comply with all of the following:

a. The request shall be in writing and shall be filed with the board at least 20 calendar days in advance of the proposed sale of any goods or services.

b. The request shall include all of the following:

(1) The name of the person to which the goods or services are to be sold;

(2) The relationship of the person to the board;

(3) A description of the goods or services;

(4) The date or dates that the goods or services will be delivered; and

(5) A statement by the board member explaining how the proposed sale of the goods or services will not violate the provisions of Iowa Code Supplement section 68B.4 as amended by 2004 Iowa Acts, Senate File 2179, section 5, or create a conflict of interest under Iowa Code section 68B.2A.

1.7(2) Board guidelines. In determining whether to grant consent, the board shall take the following guidelines into consideration:

a. The duties and functions performed by the board member seeking consent are not related to the regulatory authority of the agency over the person to which the goods or services will be sold.

b. The selling of the goods or services does not affect the board member's duties or functions for the board.

c. The selling of the goods or services will not cause the board member to advocate on behalf of the person to the board.

d. The selling of the goods or services does not cause the board member to sell goods or services to the board on behalf of the person.

e. Selling of the goods or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.

f. The request complies with the procedural requirements of subrule 1.7(1).

A board member requesting consent shall not participate in the board vote on whether or not to grant consent.

1.7(3) Board decision. The board shall issue a written consent or denial within 14 calendar days following the date the request was filed. The deadline may be extended by agreement of both the board member and the board. If the request is denied, the board shall state the reasons for the denial.

1.7(4) Appeal of denial. Board denial of a request to sell goods or services constitutes final agency action for purposes of seeking judicial review.

1.7(5) Authorized sales.

a. A board member may sell goods or services to a person regulated by the board if those goods or services are routinely provided to the general public as part of that person's regular business practice. However, upon request by the board, the board member shall make full factual disclosure regarding the sale to ensure compliance with this rule and Iowa Code Supplement section 68B.4 as amended by 2004 Iowa Acts, Senate File 2179, section 5.

b. Individual application and approval are not required for a sale authorized by this subrule unless there are unique facts surrounding a particular sale that would cause the sale to affect the board member's duties or functions on the board, that would give the buyer an advantage in dealing with the board, or would otherwise present a conflict of interest.

1.7(6) Consent not a defense. Consent granted by the board under this rule shall not constitute a defense to a complaint alleging a violation of any law or rule. It is the responsibility of the board member to ensure compliance with all applicable laws and rules.

1.7(7) *Employee sales.* Since the board's executive director and legal counsel is an "official" as defined in Iowa Code section 68B.2(17), the board's executive director and legal counsel shall follow the procedure for requesting consent to sell goods or services to a person subject to the board's regulatory authority as set out in rule 351—1.7(68B). The procedure for a board employee to request consent to sell goods or services to a person subject to the board's regulatory authority is governed by rule 351—6.11(68B).

This rule is intended to implement Iowa Code section 68B.4.

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ØTwo or more ARCs